

1                               BEFORE THE ARIZONA STATE BOARD  
2                               OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

3       In the Matter of :                               )               No. 94-002  
4    )               )  
5       Fred L. Nevius, D.O.                            )               CONSENT TO ENTRY OF  
6    )               ORDER AND FINDINGS  
7       Holder of License No. 2042                    )               OF FACT, CONCLUSIONS  
8       for the Practice of Osteopathic             )               OF LAW AND ORDER  
9       Medicine and Surgery in the                 )  
10      State of Arizona                               )               *Case # 1706*

11       A complaint charging Fred L. Nevius, D.O., Holder of License  
12       No. 2042 for the practice of Osteopathic Medicine and Surgery in  
13       the State of Arizona with unprofessional conduct as provided in  
14       A.R.S.§32-1854 having been received by the Arizona Board of  
15       Osteopathic Examiners in Medicine and Surgery ("Board"); and Fred  
16       L. Nevius, D.O., ("Respondent") having expressed a desire to  
17       execute a Consent to Entry of Order ("Order") pursuant to  
18       A.R.S.§41-1061(D) in lieu of participating in a public hearing  
19       concerning the allegations contained in the complaint;

20       THEREFORE, in lieu of further proceedings and as a final  
21       disposition of this matter:

22       (1) Respondent admits that the Findings of Fact and  
23       Conclusions of Law set forth are true and accurate.

24       (2) Respondent admits that the conduct described in this Order  
25       is unprofessional conduct as provided by A.R.S.§32-1854.

26       (3) Respondent acknowledges that the record prepared in this  
27       matter, all investigative material prepared and received by the  
28       Board concerning the allegations, and all related exhibits and  
29       materials may be retained in the Board's file pertaining to this  
30       matter.

1 (4) Respondent understands that pursuant to A.R.S. §32-1855, he  
2 has the right to a public hearing concerning each allegation set  
3 forth in the above captioned matter at which Respondent could  
4 present evidence and cross-examine witnesses. Respondent waives  
5 his right to such hearing.

6 (5) Respondent waives any right to rehearing or review or to  
7 judicial review of the Findings of Fact Conclusions of Law or  
8 Order.

9 (6) Respondent acknowledges that based upon the Findings of  
10 Fact and Conclusions of Law, coupled with his admission thereto,  
11 and pursuant to A.R.S. §32-1855, the Board is authorized to take  
12 formal disciplinary action against his license to practice  
13 osteopathic medicine and surgery.

14 (7) Respondent understands that he has the right to consult  
15 with an attorney prior to signing this Consent to Entry of Order.

16 (8) Respondent acknowledges that the Findings of Fact,  
17 Conclusions of Law and Order contained herein are conclusive  
18 evidence of unprofessional conduct which may not be disputed,  
19 denied or relitigated in any future proceeding and may be used for  
20 purposes of determining sanctions in any future disciplinary  
21 matter.

22 (9) Respondent hereby authorizes any attending physician,  
23 psychiatrist or psychologist to release to the Board all records  
24 pertaining to his care and treatment.

25 (10) Respondent acknowledges that any violation of this Order  
26 by him constitutes grounds for further disciplinary action for  
27 unprofessional conduct pursuant to A.R.S. §32-1854(26).  
28

1 (11) Respondent acknowledges that this Order is effective  
2 beginning on the 19<sup>th</sup> day of April, 1994.

3 DATED this 19<sup>th</sup> day of April, 1994.

4  
5 \_\_\_\_\_  
6 Attorney for Respondent

Fred L. Nevins, DO  
Respondent

7 Pursuant to the foregoing Consent to Entry of Order, the  
8 evidence contained in the Board's records and files in this matter,  
9 and good cause appearing, the Board makes the following:

10 FINDINGS OF FACT

11 I

12 Respondent is the holder of License No. 2042 for the practice  
13 of osteopathic medicine and surgery in the State of Arizona.

14 II

15 The Board of Osteopathic Examiners in Medicine and Surgery is  
16 the duly constituted authority for the regulation of the practice  
17 of osteopathic medicine and surgery in the State of Arizona,  
18 pursuant to Title 32, chapter 17 of the Arizona Revised Statutes.

19 III

20 On March 14, 1994, Respondent, was admitted to St. Luke's  
21 Behavioral Health Center, Phoenix, Arizona for treatment of a  
22 chemical dependency (addiction to Placidyl). Respondent informed  
23 the staff of St. Luke's Behavioral Health Center that he had self-  
24 medicated with controlled and/or prescription only medications  
25 (Placidyl) for an extended period prior to that date.

26 IV

27 Respondent, was not at that time, under the care and treatment  
28

1 of a physician, and had not been prescribed the medication, which  
2 he had admitted taking, by a physician as part of a recognized  
3 course of treatment.

4 V

5 On March 30, 1994 Respondent signed a Stipulation and  
6 Agreement with the Arizona Board of Osteopathic Examiners in  
7 Medicine and Surgery wherein he agreed to refrain from the practice  
8 of osteopathic medicine and surgery until such time as he had  
9 successfully completed in-patient treatment at St. Luke's  
10 Behavioral Health Center, submitted a plan for aftercare treatment  
11 and monitoring, and met with the Board to review his compliance  
12 with said Stipulation and Agreement.

13 VI

14 Respondent, has submitted documentation of compliance with the  
15 terms and conditions contained in the Stipulation and Agreement  
16 entered into with the Board on March 30, 1994.

17 CONCLUSIONS OF LAW

18 IX

19 The conduct described in paragraphs III and IV herein constitutes  
20 unprofessional conduct as defined in A.R.S. §32-1854(19): Conduct  
21 or practice contrary to recognized standards of ethics of the  
22 Osteopathic Medical Profession or conduct or practice which does or  
23 might constitute a danger to the health, welfare or safety of the  
24 patient or the public or conduct or practice or condition which  
25 does or might impair the ability safely and skillfully to practice  
26 medicine.

The conduct described in paragraph III and IV herein constitutes unprofessional conduct as defined in A.R.S. §32-1854(22): Use of controlled substances or prescription-only drugs unless provided by a medical practitioner, as defined in §32-1901, as part of a lawful course of treatment.

ORDER

Pursuant to A.R.S. §32-1855(E)(4), Fred L. Nevius, D.O. ("Respondent") be subject to the following order:

(1) Fred L. Nevius, D.O. may resume the practice of osteopathic medicine and surgery pursuant to compliance with the following terms and conditions:

A. Successful completion of the Evening Outpatient Treatment Program at O'Reilly Care Center, Tucson, Arizona.

B. Secure and maintain a sponsor for 12 step recovery program.

C. Attendance of at least four 12 step meetings/week for the first 12 months of this order.

D. Regular meetings with his attending physician or therapist.

E. Attendance at no less than three group therapy meetings/month with a counselor approved by the Board.

F. Random body fluid testing to be conducted by designated agents of the Board.

(2) Respondent shall meet with the Board regularly upon the request of the Board.

(3) Respondent shall use no controlled substance or prescription-only medication unless prescribed by his attending physician.

Respondent shall refrain completely from the use of alcohol.

1 Respondent shall notify the Board in writing of any substance or  
2 medication prescribed to him by a physician within twenty-four  
3 hours after such prescription is ordered by the attending  
4 physician.

5 (4) Respondent is hereby placed on probation for a period of not  
6 less than <sup>five</sup> ~~three~~ (3) years. *5 RPH*

7 (5) Respondent shall authorize all treating personnel involved in  
8 his care to release information on his progress and prognosis to  
9 the Board upon its request. This information shall be considered  
10 confidential.

11 (6) Respondent shall bear any and all costs of compliance with  
12 this order.

13 DATED this 19<sup>th</sup> day of April, 1994.

14  
15 ARIZONA STATE BOARD OF OSTEOPATHIC  
16 EXAMINERS IN MEDICINE AND SURGERY

17 [ S E A L ]  
18

19 By

*Paul M. Hering*  
President

20 By

*Robert J. Miller*  
Executive Director